

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #8	CCRB Case #: 201910160	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 11/14/2019 7:39 PM	Location of Incident: [REDACTED]	Precinct: 07	18 Mo. SOL 5/14/2021	EO SOL 12/29/2021	
Date/Time CV Reported Thu, 11/14/2019 3:22 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/22/2019 1:21 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Sean Robinson	04836	961183	007 PCT
2. POM Michael Brenner	08077	960276	007 PCT
3. POF Blair Butler	12159	965672	007 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Duque	06018	965706	007 PCT
2. SGT Kenneth Jefferson	4968	944678	007 PCT
3. POM Luis Diaz	19018	950322	007 PCT
4. POM Luis Navarro	15793	957893	007 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Sean Robinson	Force: Police Officer Sean Robinson used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Sean Robinson	Abuse: Police Officer Sean Robinson forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
C.POM Michael Brenner	Abuse: Police Officer Michael Brenner forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
D.POF Blair Butler	Discourtesy: Police Officer Blair Butler spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On November 14, 2019, § 87(2)(b) filed this complaint with IAB under original log #19-41692. On November 22, 2019, this case was received by the CCRB.

On November 14, 2019, at approximately 7:39 p.m., PO Sean Robinson and PO Michael Brenner of the 7th Precinct responded to a 911 call in front of 179 Madison Avenue in Manhattan. At the location, PO Robinson used physical force against § 87(2)(b) (**Allegation A: Force, § 87(2)(g)**). PO Robinson and PO Brenner subsequently forcibly removed § 87(2)(b) to the hospital (**Allegation B: Abuse of Authority, § 87(2)(g)**; **Allegation C: Abuse of Authority, § 87(2)(g)**). After § 87(2)(b) was handcuffed, PO Blair Butler of the 7th Precinct spoke discourteously to § 87(2)(b) (**Allegation D: Discourtesy, § 87(2)(g)**). § 87(2)(b) was transported to § 87(2)(b).

This case contains body-worn camera footage.

Findings and Recommendations

Allegation (A) Force: Police Officer Sean Robinson used physical force against § 87(2)(b).

Allegation (B) Abuse of Authority: Police Officer Sean Robinson forcibly removed § 87(2)(b) to the hospital.

Allegation (C) Abuse of Authority: Police Officer Michael Brenner forcibly removed § 87(2)(b) to the hospital.

In her sworn statement, § 87(2)(b) stated that officers approached her while she stood outside a bagel shop located at 197 Madison Avenue in Manhattan (Board Review 01). § 87(2)(b) acknowledged consuming one or two 50ml bottles of alcohol prior to this encounter, and possibly singing and dancing outside the bagel shop, but denied entering the establishment. § 87(2)(b) had her hands up, told the officers that she did not go in the store, was not harassing anybody, and had not been outside that long. PO Robinson subsequently went behind § 87(2)(b) put his arms under her arms, and handcuffed § 87(2)(b). § 87(2)(b) did not physically or verbally respond to this. PO Robinson then slammed § 87(2)(b) on the ground. § 87(2)(b) sustained a swollen and bloody lip from being slammed. § 87(2)(b) was then removed to § 87(2)(b) via ambulance by EMS.

According to PO Brenner's BWC, PO Brenner and PO Robinson were the first officers to arrive at the location and speak with § 87(2)(b) (Board Review 07).

In their CCRB statements, PO Butler and PO Robinson both stated that most officers are familiar with § 87(2)(b). PO Butler stated that she was a "known EDP" (Board Review 02 and 03). PO Butler stated that § 87(2)(b) frequently gets drunk in the vicinity of 197 Madison Street, acts hostile, and makes accusations of misconduct against police officers. PO Butler also stated that § 87(2)(b) was known to kick and bite officers. PO Robinson has been assigned to the 7th Precinct for approximately three years and recognized § 87(2)(b) from prior 911 jobs. In the past, PO Robinson responded to approximately more than five 911 calls regarding § 87(2)(b) being emotionally disturbed and intoxicated on the street. During the previous jobs, § 87(2)(b) either left or was transported to the hospital for being emotionally disturbed or intoxicated. PO Robinson only recalled § 87(2)(b) being arrested once, for assaulting a female, but he did not participate in the arrest. PO Robinson did not recall any other specific violent incidents with § 87(2)(b) but he was aware that § 87(2)(b) has been violent in the past. PO Robinson was also aware that § 87(2)(b) has made threats to officers in the past.

During the incident, PO Robinson and PO Butler told § 87(2)(b) to leave, but she refused.

PO Robinson stated that § 87(2)(b) was incoherent, yelling, cursing, and slurring her words. PO Robinson believed that § 87(2)(b) was intoxicated because she was stumbling,, slurring her words, unable to form sentences, and had an odor of alcohol emanating from her; all of which was consistent with PO Robinson's past experiences with § 87(2)(b) when she was intoxicated. PO Butler also stated that § 87(2)(b) acknowledged being "drunk." PO Robinson spoke with the employee who called 911 and he stated that § 87(2)(b) harassed him and others, but he did not say how § 87(2)(b) did so. The employee informed PO Robinson that he wanted § 87(2)(b) removed. At some point, because § 87(2)(b) continuously refused to leave, was highly intoxicated, and could not care for herself, an ambulance was going to be called. PO Robinson stated that they did not want to leave knowing that § 87(2)(b) could hurt someone or step into the middle of the street. PO Robinson believed that § 87(2)(b) was a danger to herself and others because of the way she acted, statements she made, and because she was incoherent. At the time of his interview, PO Robinson did not recall the specific statements § 87(2)(b) made. PO Robinson stated that at some point after he spoke with the employee, § 87(2)(b) asked, "What are you going to do," raised her arms up to her shoulders with elbows bent and palms facing up, and walked towards PO Butler. When § 87(2)(b) was close to PO Butler, § 87(2)(b)'s hands were down and both hands formed a fist. PO Butler was standing and did not move as § 87(2)(b) approached. PO Robinson believed that § 87(2)(b) was now a threat to PO Butler because she had made threats towards others, cursed at the officers, formed a fist, and tensed her body. PO Robinson did not recall what threats she made or whether she made threats before or after she was placed in handcuffs. In response, without PO Robinson saying anything, PO Robinson grabbed § 87(2)(b) once she was less than "an-arm's length" away from PO Butler, guided her to the ground, and placed her in handcuffs without difficulty. PO Robinson guided § 87(2)(b) to the ground to remove her from being too close to PO Butler. PO Robinson described guiding § 87(2)(b) to the ground as not a tackle but putting her on the ground and trying to avoid injuries while doing so; PO Robinson believed that he held her the entire time as he guided her down. PO Robinson stated that § 87(2)(b) sustained a bloody lip from being taken down. EMS then arrived on scene and removed § 87(2)(b) to § 87(2)(b). Sgt. Kenneth Jefferson of the 7th Precinct responded to the scene after § 87(2)(b) was handcuffed, prior to her removal to the hospital.

§ 87(2)(g) PO Butler stated that § 87(2)(b) approached her with her hands outstretched in front of her as if she were going to attack her, stating, "You're not gonna fucking do anything to me, if you touch me I'll fucking sue you." In response, PO Robinson grabbed § 87(2)(b)'s arm and swung her to the ground.

After PO Robinson placed § 87(2)(b) in handcuffs, § 87(2)(b)'s demeanor was "even worse." § 87(2)(b) made threats towards officers, but because the incident happened in 2019 PO Robinson did not recall what threats she made. § 87(2)(b) screamed and cursed louder and repeated herself numerous times. PO Robinson handcuffed § 87(2)(b) to prevent any additional violence from § 87(2)(b). At this point, all of the officers decided to call an ambulance to remove her to the hospital.

At 5:03 of PO Brenner's BWC, § 87(2)(b) denied being intoxicated but admitted to "drinking" (Board Review 07).

In PO Brenner's BWC, at 6:28, § 87(2)(b) says, "You can't do shit to me," as she walks forward in the direction of PO Butler who is on the right of the screen. § 87(2)(b)'s arms are outstretched and raised to her side below her shoulder. As § 87(2)(b) gets closer to PO Butler, § 87(2)(b) says, "Bitch if you hit me I'm suing you." At 6:30, § 87(2)(b)'s arms are lowered to her sides, but her hands are out of the camera's frame. At 6:31, § 87(2)(b)

§ 87(2)(b) appears to be an inch or less away from PO Butler. At 6:32, PO Robinson walks around § 87(2)(b) and grabs her arms from the back and takes her down to the ground to handcuff her. Starting at 5:45 of PO Robinson's BWC and at 4:58 of PO Butler's BWC, the same incident is captured at different angles of PO Brenner's BWC; § 87(2)(b)'s hands are out of their camera's frame as she lowers them (Board Review 07). Immediately after PO Robinson handcuffed § 87(2)(b) PO Brenner called an ambulance to have § 87(2)(b) removed to the hospital.

The EVENT noted that a 911 caller, who provided his name to the operator, stated that a female was at the entrance threatening the individuals walking into the building and blocking the entrance (Board Review 05). The 911 caller also stated that she was trespassing. The EVENT type was noted as "trespass in progress" (10-39T1).

The AIDED report prepared by PO Brenner noted that § 87(2)(b) was emotionally disturbed, had a prior EDP history, attempted physical harm to others, verbally threatened others, spoke of harming self or others, placed self in dangerous situation, physically threatened others, was unable to care for self, was highly intoxicated, and was emotionally disturbed (Board Review 05). PO Brenner also noted that § 87(2)(b) became combative and aggressive with hands by her side clenched into fists and had to be guided down to the ground to be restrained.

Threat Resistance Injury Report (TRI) "TRI 13 2" documented PO Robinson's use of force and circumstances which were consistent with his CCRB testimony and AIDED report (Board Review 08). Threat Resistant Injury Report "TRI 13 3" included a photo of the laceration to § 87(2)(b)'s lower lip (Board Review 08). Threat Resistance Injury Report "TRI 13" included the details received by Lt. Michael Kotylar (the supervisor from the 13th Precinct who investigated the use of force) which were largely consistent with PO Robinson's CCRB testimony (Board Review 08).

The investigation is not in possession of § 87(2)(b)'s medical records.

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody (Board Review 11).

NYPD Patrol Guide Procedure 221-13 defines an Emotionally Disturbed Person (EDP) as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others (Board Review 12). The Patrol Guide demands that officers remove EDPs to the hospital.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation (D) Discourtesy: Police Officer Blair Butler spoke discourteously to § 87(2)(b)

Although § 87(2)(b) did not testify that PO Butler used profanities towards her, at 14:55 of PO Butler's BWC, PO Butler tells § 87(2)(b) "Stand up and stop acting like a fucking child." At the time, § 87(2)(b) was handcuffed and PO Butler was holding § 87(2)(b) while they were both standing. In her CCRB statement, PO Butler stated that the profanity "slipped out."

The mission and values of the NYPD states that officers are to "maintain a higher standard of integrity that is generally expected of others" and "value human life, respect the dignity of each individual, and render our services with courtesy and civility," NYPD Patrol Guide Procedure 200-02 (Board Review 13).

Officers' use of profanities during stressful street encounters do not constitute misconduct, but may not do so when it serves "no legitimate purpose but to belittle" a civilian, DAO DCT Case Number 2015-15012 (Board Review 14).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to 10 other CCRB complaints, § 87(2)(b)
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- PO Robinson has been a member of service for four years. This is his first CCRB complaint.
- PO Brenner has been a member of service for four years. This is his first CCRB complaint.
- PO Butler has been a member of service for two years. She has been listed as a subject in one additional CCRB complaint, which is currently under investigation.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.

- A FOIL request submitted to the NYC Comptroller's Office indicates that as of February 13, 2020, § 87(2)(b) has not filed a Notice of Claim regarding this incident (Board Review 06).

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 8

Investigator: Patrick Yu SI Patrick Yu 02/24/2021
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 2/24/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date